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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/664,861

09/22/2003

Alla V.K. Reddy

AVR-100

4312

24956 7590 12/13/2007  
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.  
1800 DIAGONAL ROAD  
SUITE 370  
ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

12/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/664,861

Applicant(s)

REDDY ET AL.

Examiner

Camtu T. Nguyen

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7, 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 9, 12-17, 19-21 and 25-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election***

Applicant's election without traverse of Species III, biasing of the condom with a pouch of highly resilient material, claims 1-5, 8, 9, 12-17, 19-21, 25-33, in the reply filed on 9-24-2007, is acknowledged.

Claims 6, 7, 10, 11, and 18 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 9, 12-17, 19-21, 25, 30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Boarman (U.S. Patent No. 5,113,873). Boarman discloses in Figure 1 a female condom (10) comprising a tubular body (12) having a closed end (30) and an open end (32), the tubular body (12) form of a latex rubber material (column 3 lines 23-26), thus, inherently would display longitudinal biasing means in pouch (16). Figure 1 further discloses a shield portion (14) in triangular shape connected to the open end (32), a sponge-like material (40) retained within cavity (39). The shield portion (14) is also from of a latex rubber material (column 3 lines 23-

26), thus, the shield portion (14) would easily contour concavely on the side that contacts the female anatomy surrounding the vagina.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 & 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boarman (U.S. Patent No. 5,113,873). Boarman discloses in Figure 1 a female condom (10) comprising elements are recited in these claims, particularly, the sponge-like material (40) but does not suggest its thickness is over 2 inches, as recited. Generally, differences in concentration, temperature, size, or pressure will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration, temperature, size, or pressure is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). See MPEP 2144.05 (II). However, since the sponge-like material (40) collapses and compresses into much smaller mass upon pressure applied thereto, one skilled would have utilized a sponge-like material of thickness at least over 2 inches as such would maintain the desired length of the tubular body (12) when the sponge-like material (40) collapses.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boarman (U.S. Patent No. 5,113,873) and further in view of Alla et al (U.S. Patent No. 5,992,415). Boarman discloses in Figure 1 a female condom (10) comprising elements are recited in these claims, particularly, the sponge-like material (40) but does not suggest it including an insertion opening, as recited. Alla et al discloses in Figure 3 a female condom (10) comprising a sponge (28) retained at the closed end thereof, the middle portion of the sponge (28) is concave (32) or bowl-like (column 3 lines 14-20). Therefore, one skilled in the art would have been motivated to modify the Boarman's sponge-like material (40) to have it centered concave or bowl-like, suggested by Alla et al, as such would facilitate proper insertion by the user's finger or tool within the condom device.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boarman (U.S. Patent No. 5,113,873) and further in view of Valentine et al (U.S. Patent No. 5,387,206). Boarman discloses in Figure 1 a female condom (10) comprising elements are recited in these claims, particularly, the sponge-like material (40) but does not suggest it including notches. Valentine et al discloses in Figures 2 & 3 a medical sponge (10) comprising notches opposing notches (24). Therefore it would have been obvious to one skilled in the art modify the Boarman's spong-like material (40) to include notches, as taught by Valentine et al references, as such would provide folding or bending of the sponge-like material (40), thereby, facilitating smoother insertion.

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Art Unit: 3772

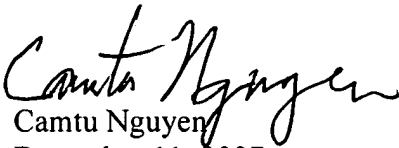
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### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Camtu Nguyen  
December 11, 2007

  
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12/10/07